

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

JERRY D. KNIGHT, JR.,

Civil No. 13-1704 (JRT/JJG)

Plaintiff,

v.

FAIRVIEW-RIVERSIDE CLINIC, and
U. of M. PRIMARY CARE CENTER,

**REPORT AND
RECOMMENDATION**

Defendants.

Plaintiff commenced this action on July 1, 2013, by filing a civil complaint, and an application seeking leave to proceed in forma pauperis, (“IFP”). (Docket Nos. 1 and 2.) The Court previously examined Plaintiff’s submissions, and determined that his complaint was inadequate. Therefore, in an order dated July 19, 2013, (Docket No. 4), the Court directed Plaintiff to file an amended complaint. The order expressly notified Plaintiff that if he did not file an entirely new pleading by August 30, 2013, the Court would recommend that this action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b).

Plaintiff subsequently filed an anomalous motion requesting to “proceed with the filings of the case.” (Docket No. 6.) However, that motion offers no reason to excuse Plaintiff from the order directing him to file an amended complaint, nor does the motion suggest that Plaintiff actually intends to file any new pleading. The motion does not describe any specific relief that Plaintiff is seeking, and it does not present any sufficient factual or legal grounds for granting any relief of any kind.

The deadline for filing an amended complaint expired more than two months ago, and Plaintiff still has not filed a new pleading, nor has he offered any excuse for his failure to do so. Therefore, the Court will now recommend, in accordance with the previous

order entered in this matter, that this action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). See Henderson v. Renaissance Grand Hotel, 267 Fed.Appx. 496, 497 (8th Cir. 2008) (unpublished opinion) (“[a] district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order”); see also Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to “manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases”).

Having determined that this action should be dismissed, the Court will further recommend that Plaintiff's pending IFP application be summarily denied. The Court will also recommend that Plaintiff's anomalous motion to “proceed with the filings of the case” be summarily denied, because it is not supported by any factual or legal grounds.

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

1. Plaintiff's application to proceed in forma pauperis, (ECF No. 2), be **DENIED**;
2. Plaintiff's motion to “proceed with the filings of the case,” (ECF No. 6), be **DENIED**; and
3. This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: November 1, 2013

s/ Jeanne J. Grham

JEANNE J. GRAHAM

United States Magistrate Judge

NOTICE

Pursuant to District of Minnesota Local Rule 72.2(b), any party may object to this Report and Recommendation by filing and serving specific, written objections by **November 19, 2013**. A party may respond to the objections within fourteen days after service thereof. Any objections or responses shall not exceed 3,500 words. The District Judge will make a de novo determination of those portions of the Report and Recommendation to which objection is made.